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UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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ENTRUST RETIREMENT TRUST XV –  
DWIGHT CARLSON, TRUSTEE;

Plaintiff,

v.

DONNER CREEK VILLAGE  
CONDOMINIUM ASSOCIATION; *et al.*,

Defendants.

Case No. 3:17-cv-0490-LRH-(VPC)

ORDER

Before the court is plaintiff Entrust Retirement Trust XV’s (“Entrust”) motion for leave to file an amended complaint. ECF No. 24. Defendants U.S. Department of Housing and Urban Development (“HUD”) and Ben Carson (“Carson”), in his capacity as Secretary of HUD, filed a non-opposition to Entrust’s motion. ECF No. 26.

A party may amend its pleadings by leave of court. FED. R. CIV. P. 15(a)(2). Leave of court to amend should be freely given when justice so requires and when there is no undue delay, bad faith, or dilatory motive on the part of the moving party. *See Wright v. Incline Village General Imp. Dist.*, 597 F.Supp.2d 1191 (D. Nev. 2009); *DCD Programs, LTD v. Leighton*, 883 F.2d 183 (9th Cir. 1987).

Here, Entrust requests leave to amend its complaint to substitute appropriate parties including the United States for incorrectly named defendants HUD and Carson. *See* ECF No. 24.

1 A copy of the proposed amended complaint is attached to the motion in accordance with LR 15-  
2 1(a). Doc. #24, Exhibit 1.

3 The court has reviewed Entrust's motion, along with the proposed amended complaint,  
4 and finds that there is no undue delay, bad faith, or dilatory motive on behalf of Entrust in  
5 requesting leave to amend the complaint. Further, the court finds that the matter is early in  
6 discovery and that defendants would not be prejudiced by allowing amendment. Accordingly, the  
7 court shall grant Entrust's motion for leave to file an amended complaint.

8 The court recognizes that HUD and Carson have previously filed a motion to dismiss.  
9 ECF No. 22. However, the filing of the amended complaint supersedes the original complaint in  
10 its entirety. Further, the amended complaint substitutes the United States as the proper party in  
11 lieu of HUD and Carson. Thus, defendants' motion to dismiss the complaint is now moot and the  
12 court shall deny the motion accordingly.

13  
14 IT IS THEREFORE ORDERED that plaintiff's motion for leave to file an amended  
15 complaint (ECF No. 24) is GRANTED. Plaintiff Entrust Retirement Trust XV shall have ten (10)  
16 days after entry of this order to file the proposed amended complaint attached as Exhibit 1 to  
17 plaintiff's motion (ECF No. 24, Ex. 1).

18 IT IS FURTHER ORDERED that defendants' motion to dismiss (ECF No. 22) is  
19 DENIED without prejudice.

20 IT IS SO ORDERED.

21 DATED this 12th day of December, 2017.

22   
23 LARRY R. HICKS  
24 UNITED STATES DISTRICT JUDGE  
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